

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JUAN IZQUIERDO,

Civil Case No. _____

Plaintiff,

NOTICE OF REMOVAL

-against-

34TH STREET DINER INC., SCOTT CAMPBELL,
TED DANIIL, GEORGE KRPEYAN, and
ALEXANDROS SGOURDOS,

Defendants.

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TO: UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK:

Pursuant to 28 U.S.C. § 1441, *et seq.*, defendants 34th Street Diner Inc., Scott Campbell, Ted Daniil, George Krpeyan, and Alexandros Sgourdos (“Defendants”), hereby remove the state court action, *Juan Izquierdo v. 34th Street Diner Inc., et al.*, Index Number 157525/2020, Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York. Removal is warranted under 28 U.S.C. § 1441(a) because Plaintiff’s Complaint asserts claims arising under federal law over which this Court has original jurisdiction pursuant to 20 U.S.C. § 1331. Additionally, Plaintiff’s remaining claims arise from the same case or controversy as Plaintiff’s federal law claims and are therefore subject to this Court’s supplemental jurisdiction pursuant to 28 U.S.C. § 1337.

In support of this notice and grounds for removal, Defendants state as follows:

1. A Summons with Notice was filed on September 16, 2020.
2. On February 9, 2021, the parties filed a stipulation extending Plaintiff’s time to file and serve his Complaint from November 24, 2020 through April 1, 2021.
3. On March 30, 2021, Plaintiff filed his Complaint in this action.

4. On April 28, 2021, the parties filed a stipulation tolling all relevant deadlines and extending Defendants' time to respond to the Complaint to on or before May 28, 2021.

5. A copy of the Summons with Notice is attached hereto as **Exhibit A**. A copy of the Complaint is attached hereto as **Exhibit B**. In accordance with 28 U.S.C. § 1446(a), copies of the Stipulation extending Plaintiff's time to file and serve his Complaint and the Stipulation extending Defendants' time to respond to the Complaint are also attached hereto as **Exhibits C** and **D**, respectively, as well as a complete state court docket history, attached hereto as **Exhibit E**. The aforementioned constitute all of the process, pleadings, and orders prior to the removal of this action.

6. In the Complaint, Plaintiff alleges claims of race and ethnicity discrimination in violation of 42 U.S.C. §1981, race and ethnicity discrimination and retaliation in violation of Title VII of the Civil Rights Act of 1964, race and ethnicity discrimination and retaliation in violation of the New York State Human Rights Law (“NYSHRL”) and the New York City Human Rights Law (“NYCHRL”), sex and gender discrimination and retaliation in violation of the NYSHRL and the NYCHRL, familial status discrimination and retaliation in violation of the NYSHRL, caregiver status discrimination and retaliation in violation of the NYCHRL, and aiding and abetting discrimination and retaliation in violation of the NYSHRL and the NYCHRL. *See, Ex. B.*

I. Jurisdictional Basis for Removal – Federal Question

7. Under the Federal Rules of Civil Procedure, 28 U.S.C. § 1331, this Court has original jurisdiction over all claims arising under the laws of the United States.

8. Here, Plaintiff's claims of race and ethnicity discrimination under §1981 and Title VII constitute claims being brought under the laws of the United States.

9. Accordingly, this action presents claims arising under the laws of the United States, thereby conferring jurisdiction on this Court pursuant to 28 U.S.C. § 1331.

II. Supplemental Jurisdiction over Plaintiff's Additional Claims – Same Case or Controversy

10. In addition to jurisdiction over any of Plaintiff's claims under federal law, this Court has supplemental jurisdiction over Plaintiff's remaining claims. Specifically, 28 U.S.C. § 1337 confers jurisdiction to this Court over all claims that form part of the same case or controversy as the claim(s) over which the Court has original jurisdiction.

11. Plaintiff's discrimination and retaliation claims under the NYSHRL and NYCHRL clearly stem directly from the same common set of alleged facts and circumstances as his federal claims

III. Removal to this Court is Otherwise Proper

12. This notice is being timely filed based upon the executed stipulation between the parties. *See, Ex. D.* As such, removal is timely under 28 U.S.C. § 1446(b).

13. The United States District Court for the Southern District of New York embraces the county in which the state court action is now pending, and thus this Court is the proper venue for this action.

14. In accordance with 28 U.S.C. § 1446(d), Defendants are filing written notice of this removal with the Clerk of the Supreme Court of the State of New York, County of New York, and a Notice of Filing of Notice of Removal, together with this Notice of Removal, are being served upon Plaintiff.

15. If any questions arise as to the propriety of the removal of this action, Defendants request the opportunity to brief any disputed issues and to present oral argument in support of the position that this case is properly removable.

16. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of Defendants' rights to assert any defense or affirmative matter including,

without limitation, the defenses of: 1) lack of jurisdiction over the person, 2) improper venue, 3) insufficiency of process, 4) insufficiency of service of process, 5) improper joinder of claims and/or parties, 6) failure to state a claim, or 7) any other procedural or substantive defense available under state or federal law.

WHEREFORE, Defendants respectfully remove this action from the Supreme Court of the State of New York, County of New York, to this Court, pursuant to 28 U.S.C. § 1441.

Dated: New York, New York
May 28, 2021

GORDON REES SCULLY MANSUKHANI, LLP

By: /s/ David Grech

David J. Grech

Brittany L. Primavera

One Battery Park Plaza, 28th Floor

New York, NY 10004

(212) 269-5500

Attorneys for Defendants

CERTIFICATE OF SERVICE

This is to certify that the foregoing Notice of Removal, with exhibits, together with the Notice to Plaintiff of Filing of Notice of Removal, was sent via electronic mail and United States mail on the 28th day of May 2021, postage prepaid thereon to:

Goddard Law PLLC
Megan S. Goddard, Esq.
Anthony P. Consiglio, Esq.
39 Broadway, Suite 1540
New York, NY 10006
Attorney for Plaintiff

/s/ *Brittany L. Primavera*
Brittany L. Primavera

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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JUAN IZQUIERDO,

Index No. 15725/2020

Plaintiff,

-against-

34TH STREET DINER INC., SCOTT CAMPBELL,
TED DANIIL, GEORGE KRPEYAN, and
ALEXANDROS SGOURDOS,

Defendants.

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NOTICE TO STATE COURT OF FILING NOTICE OF REMOVAL

To: Hon. Milton Tingling, Clerk of Supreme Court, New York County, New York.

PLEASE TAKE NOTICE that defendants 34th Street Diner Inc., Scott Campbell, Ted Daniil, George Krpeyan, and Alexandros Sgourdos (“Defendants”) have filed their Notice of Removal to the United States District Court for the Southern District of New York, a copy of which is attached hereto. Defendants hereby file a copy of the Notice with the Clerk of the Supreme Court of New York County, New York, in accordance with 28 U.S.C. § 1446(d).

Dated: May 28, 2021

Respectfully submitted,

GORDON REES SCULLY MANSUKHANI, LLP

BY: /s/ *David J. Grech*

David J. Grech

Brittany L. Primavera

One Battery Park Plaza, 28th Floor

New York, NY 10004

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Attorneys for Defendants

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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JUAN IZQUIERDO,

Index No. 15725/2020

Plaintiff,

-against-

34TH STREET DINER INC., SCOTT CAMPBELL,
TED DANIIL, GEORGE KRPEYAN, and
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Defendants.

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NOTICE TO PLAINTIFF OF FILING OF NOTICE OF REMOVAL

To: Goddard Law PLLC, attorney for plaintiff, 39 Broadway, Suite 1540, New York, NY 10006

You will please take notice that defendants 34th Street Diner Inc., Scott Campbell, Ted Daniil, George Krpeyan, and Alexandros Sgourdos (“Defendants”) in the above-styled and numbered action originally filed in the Supreme Court of the State of New York, County of New York, namely, *Juan Izquierdo v. 34th Street Diner Inc., et al.*, Index Number: 15725/2020, have filed in the United States District Court for the Southern District of New York, their Notice of Removal in the above-captioned action from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York.

Attached hereto you will find a copy of said Notice of Removal.

Yours truly,

GORDON REES SCULLY MANSUKHANI, LLP

BY: /s/ David J. Grech

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